

No. 25

October 5, 2001

S. 1447 — Aviation Security Act

Calendar No. 166

Read the second time and placed on the Senate Calendar on September 24, 2001.

NOTEWORTHY

- ***NOTE: This Legislative Notice is based on the substitute draft dated October 2, 2001. Negotiations on provisions were continuing as of press time.***
- On Wednesday, October 3, the Majority Leader filed cloture on the motion to proceed to S. 1447. Under normal procedures, a cloture petition would ripen in two days (however, the Majority Leader previously announced there would be no roll call votes on Friday or on Columbus Day). At press time, it appeared likely the cloture vote could be vitiated, and the Senate would move to the bill's consideration.
- S. 1447 was introduced on September 21, 2001, by Senators Hollings, McCain, Rockefeller, and Hutchison in response to the terrorist attacks of September 11, 2001. At press time, it was understood that when the Senate moves to the bill, Senator Hollings will offer an amendment in the nature of a substitute. This Legislative Notice addresses that substitute (as it was written in a staff working draft dated October 2, with subsequent modifications known at press time).
- The bill (that is, the Hollings substitute) establishes a Deputy Secretary for Transportation Security, establishes an Aviation Security Council, increases the number of Federal air marshals on airplanes, federalizes airport security operations, and improves screening procedures for passengers. It assesses a \$2.50-per-passenger security charge, and authorizes such funds as necessary to carry out these security initiatives.
- A major issue of contention is the federalization of screening operations. The White House proposal would require federal oversight of the passenger screening system but would permit, after a transition period, the use of federally trained contract employees as screeners (but not as managers or supervisors). S. 1447 requires screeners to be federal employees. Negotiations to broker a compromise are expected to continue.

- An amendment may be offered to transfer the federal oversight for airport security from the Department of Transportation to the Department of Justice.

— Highlights —

[Note: The following highlights of the Hollings substitute come from a summary prepared by the Senate Commerce Committee.]

- **Federal Air Marshals** – Authorizes an increase in the number of federal air marshals, with an option by the Department of the Treasury (DOT) to draw on suitable personnel from other federal agencies in the interim.
- **Cockpit Security** – Requires DOT to take steps leading to the strengthening of cockpit doors.
- **Airport Security** – Requires airports to tighten security, including the use of federal armed law enforcement officials monitoring access points and secure areas. The federal government would oversee this effort by: setting higher standards; using federal aviation security personnel to supplement local airport efforts; and by testing and evaluating airport performance.
- **Screeners** – Transfers responsibility for the screening of passengers and their baggage from the airlines to DOT. The bill creates a Deputy Secretary of Transportation for Transportation Security, who would be responsible for day-to-day federal aviation security operations. The federal government would be responsible for the so-called sterile passenger areas: Frontline screeners at airports would be trained federal employees, and their daily activities would be supported by the presence of armed law enforcement officers at every screening checkpoint. At smaller airports, DOT (with the approval of the Department of Justice (DOJ)) would have the option of requiring the airport to use state or local law enforcement officials to conduct the screening procedures if the screening services and training of officers meet the same standards as those required for the federal officials; the federal government will reimburse the airport. DOT would have the flexibility to expedite the hiring and firing of screeners.
- **Crew Training** – Requires DOT to develop enhanced anti-hijacking training for flight and cabin crews.
- **Flight School Training** – Requires DOJ to conduct a background investigation of any alien attempting to receive training in the operation of any jet-propelled aircraft.
- **Security Fee** – Requires airlines to pay a security user fee based on the number of passenger enplanements. The fee would take effect six months after enactment of the bill.
- **Authorization of Funds** – Authorizes funds to carry out these security initiatives.

- **Airport Funds** – Permits the use of federal airport grants for FY 2002 to pay for increased costs of security (and also permits the use of passenger facility charge funds for such purposes); airport grants for FY 2003 would be distributed according to enplanements in CY 2000 so that no airports will be harmed by slowdowns in CY 2001. Authorizes funds to pay for increased costs due to heightened security measures.

— BILL PROVISIONS —

[NOTE: This information is based on draft text of the Hollings amendment in the nature of a substitute to S. 1447, as it was drafted on October 2.]

The Aviation Security Act

Section 1. Short title

Section 2. Findings

Section 3. Deputy Administrator for Transportation Security

- The bill establishes a Deputy Administrator for Transportation Security, appointed by the President with the advice and consent of the Senate. This deputy would be responsible for all modes of transportation (however, this bill defines only the duties related to aviation security).
- The new deputy secretary would be responsible for the day-to-day security operations at all U.S. airports, and will work in conjunction with the Federal Aviation Administration Administrator.
- The deputy secretary, working with the Attorney General and the Secretary of Defense and others, is responsible for hiring and training personnel to provide screening at all U.S. airports.

Section 4. Aviation Security Coordination Council

- The bill establishes an Aviation Security Coordination Council, comprised of representatives from the FAA, the Department of Justice, the Department of Defense, and the CIA, and chaired by the Secretary of Transportation, to coordinate national security, intelligence, and aviation security information and make recommendations.
- It requires the Council to explore the technical feasibility of developing a cross-checking database of individuals who may pose a threat to aviation or national security.

Section 5. Improved Flight Deck Integrity Measures

- This section requires the strengthening of cockpit doors and locks and requires that these doors remain locked while any such aircraft is in flight except when necessary to permit the flight deck crew access and egress.

Section 6. Deployment of Federal Air Marshals

- The bill authorizes the placement of federal air marshals on any flight, increases the number of federal air marshals, and requires the random deployment of Federal air marshals on domestic commercial air passenger flights in the United States within 30 days after the date of enactment of this Act. Airlines must seat marshals without regard to seat availability.
- Within 30 days of enactment, the Secretary of Transportation must provide for background checks and training for air marshal candidates.
- In the interim, the FAA can use personnel from other federal agencies to serve as air marshals.
- The FAA Administrator must submit separate reports to the Senate Commerce Committee and the House Transportation and Infrastructure Committee assessing the effectiveness of the air marshal program, of the baggage screening process, and of the training provided to airline crews.

Section 7. Improved Airport Perimeter Access Security

- The Secretary of Transportation is authorized to deploy federal law enforcement personnel to assist with security efforts in airports. This section also requires additional assessments and testing for compliance, including establishing pilot programs to evaluate new and emerging technology, and it requires federal coordination with airport operators to strengthen access control points in secured areas for security purposes.
- Air carriers and airports would be required to develop security awareness programs for airport employees, ground crews, and other employees.
- This section also provides for the FAA to develop a plan to help small and medium airports to enhance security operations and to provide them with financial assistance to defray the associated costs.
- This section also requires that airports use technology to detect potential chemical and biological weapons.

Section 8. Enhanced Anti-Hijacking Training for Flight Crews

- This section requires the FAA Administrator to develop and implement a mandatory program of training for flight and cabin crews of aircraft providing air transportation or intrastate air transportation in dealing with attempts to commit aircraft piracy.
- The FAA Administrator shall review the procedures used by cabin crews in notifying the flight deck crew of an emergency.

Section 9. Passenger Screening

- This section makes the Secretary of Transportation, in consultation with the Attorney General, responsible for the screening of all passengers and property, including U.S. mail, that will be carried aboard an aircraft. After a transition period not to exceed 18 months, screeners at hub airports must be federal employees.
- At smaller airports (that is, any nonhub airport or other smaller airport), the Department of Transportation (with the approval of Department of Justice) would have the option of requiring the airport to use state or local law enforcement officials for the screening procedures if the screening services and training of officers are of equivalent standards to those used by the federal operators. The federal government would reimburse the airport for the costs associated with this provision.
- “The Secretary of Transportation, in consultation with the Attorney General, shall order the deployment of law enforcement personnel authorized to carry firearms at each airport security screening location to ensure passenger safety and national security.” At a minimum, the Secretary is required to order deployment of at least one law enforcement officer at each airport security screening location.
- At the 100 largest airports in the United States (measured by the number of passenger enplanements), the Secretary has the authority to increase the number of law enforcement personnel if he deems it necessary.
- The Secretary may reduce the security requirements for nonhub airports under certain circumstances, or may require additional security measures, conduct random inspections, and otherwise help enhance airport security.
- This section also provides for an increase in the use of explosive detection system screening of checked baggage.

Section 10. Training and Employment of Security Screening Personnel

- This section requires the Secretary of Transportation, in consultation with the Attorney General, to establish a program for the hiring and training of airport security screening personnel. It establishes federal employment standards for screening personnel, including an annual proficiency review and operational testing. The Department of Transportation would have the flexibility to hire and fire screeners without regard to civil rights protections; screeners would be prohibited from striking.
- Individuals hired as security screeners must meet specified standards, including having been a U.S. national for at least five consecutive years, and must meet specified physical abilities, including meeting visual acuity and motor skills standards.
- Security screeners must undergo background checks, and the Secretary must establish additional procedures to ensure that no individual who is a national security threat is hired.
- Training must include 40 hours of classroom instruction (or its equivalent) and 60 hours of on-the-job instruction.

Section 11. Research and Development

- The bill modifies current law to enhance research and development to address “the potential release of chemical, biological, or similar weapons or devices either within an aircraft or within an airport.”

Section 12. Technical Amendment

- Requires continued review of terrorist threats to include those posed by chemical and biological agents.

Section 13. Flight School Security

- This section amends title 49 of the U.S. Code to require the Department of Justice to conduct a background investigation of any alien, or other individual designated by the Secretary, attempting to receive training in the operation of any jet-propelled aircraft.

Section 14. Report to Congress on Security

- This section requires the Attorney General and the Secretary of Transportation to transmit a report within 60 days to Congress containing their joint recommendations on any additional measures for the federal government to address transportation security.

Section 15. General Aviation and Air Charters

- The Secretary of Transportation must, within six months, report on how to improve security with respect to general aviation and air charter operations in the United States.

Section 16. Security Funding

- The Secretary of Transportation is required to collect a user fee from commercial air carriers to offset the costs of providing aviation security services to air carriers. Air carriers shall pay \$2.50 for each passenger enplanement.
- This section authorizes such sums as necessary for FY’s 2002, 2003, and 2004 to carry out the aviation security activities.

Section 17. Increased Funding Flexibility for Aviation Security

- Federal airport grants can be used for FY 2002 to pay for increased costs of security.

Section 18. Authorization of Funds for Reimbursement of Airports for Security Mandates

- This section authorizes to be appropriated to the Secretary of Transportation such sums as may be necessary for FY 2002 to compensate airport operators for direct costs incurred in complying with any security requirements imposed by the FAA on or after September 11, 2001.

— POSSIBLE AMENDMENTS —

Carnahan-Kennedy.	Provide health care, unemployment compensation, and job training benefits for an extended period of time to 100,000 laid-off airline workers and others (media reports estimate the cost at \$3+ billion).
Thompson.	Requires the federal government to set and enforce strict performance goals and standards for those responsible for airline security, from the head of the FAA to airport screeners. Incentives, such as bonuses, and sanctions, such as employment termination, may be used to assure that those responsible for airline safety live up to performance contracts which they will agree to in advance.
Burns.	Transfers federal authority for airport security from the Department of Transportation to the Department of Justice.

Staff Contact: Judy Myers, 224-2946